

Author: Scott Analyst: Kristina E. North Bill Number: SB 219
Related Bills: See Legislative History Telephone: 845-6978 Amended Date: May 20, 2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Conformity to Federal Victims of Terrorism Tax Relief Act of 2001

SUMMARY

This bill would conform state law to specified sections of the federal Victims of Terrorism Tax Relief Act of 2001 to do the following:

- ◆ exempt items from income for certain disasters or acts of terrorism,
- ◆ extend certain taxpayer deadlines, and
- ◆ allow disclosure of certain taxpayer information to federal agencies.

SUMMARY OF AMENDMENTS

The May 20, 2002, amendments eliminated the language providing specific relief for all taxpayers affected by a Presidentially declared disaster and added the language discussed in this analysis.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to grant financial relief to victims or the families of victims of a Presidentially declared disaster or terrorist attack by conforming to specified federal law relief provisions.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. The bill specifies operative dates that would make certain provisions apply to taxable years ending before, on, or after September 11, 2001.

POSITION

Pending.

At its meeting on March 6, 2002, the Franchise Tax Board voted to take a support position on the language providing specific relief for all taxpayers affected by a Presidentially declared disaster. The FTB has not reviewed the recent amendments pertaining to the Federal Victims of Terrorism Tax Relief Act of 2001

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Will Bush for GHG

June 11, 2002

ANALYSIS

FEDERAL/STATE LAW

Under **federal and state laws**, taxpayers may claim various kinds of losses, including casualty and disaster losses. A **casualty** loss occurs when property is destroyed by fire, storm, flood, or other catastrophe. A **disaster** loss occurs when property is destroyed by fire, storm, flood, or other natural event that is proclaimed a disaster by the President of the United States, or, for state law purposes, by the Governor.

New federal law, under the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134, effective January 23, 2002) exempts from federal taxation the income of any individual who dies from specified terrorist attacks. Under the new federal law, individuals who die as a result of the specified terrorist attacks are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the year in which the wounds or injury occurred. The federal law also provides a minimum tax relief benefit of \$10,000 to each eligible individual regardless of the income tax liability of the individual for the eligible years. For the exemption from tax and certain other sections of this act, terrorist attacks include only the attack on the Murrah Federal Building in Oklahoma City in 1995, the attacks of September 11, 2001 and the anthrax attacks after September 11, 2001, and before January 1, 2002. Some death benefits paid by employers and payments from charitable organizations to victims' families are exempt from federal taxation. This act also excludes from income any discharge of indebtedness by reason of the death of an individual resulting from the terrorist attacks on September 11, 2001, or an anthrax attack on or after September 11, 2001, and before January 1, 2002.

This **new federal law** increased from 120 days to one year the extension of certain deadlines, which includes filing a return, paying certain taxes, and filing a claim for credit or refund for taxpayers affected by disasters or terroristic or military actions. This relief applies with respect to actions taken by federal agencies on or after the January 23, 2002, related to disasters and terroristic or military actions occurring on or after September 11, 2001. This provision does not apply for purposes of determining interest on any overpayment of tax. The Secretary of the Treasury is required to abate interest on the tax assessed during this one-year period.

This act allows the disclosure of certain tax information to appropriate Federal agencies engaged in terrorism and national security investigations. This provision will sunset after December 31, 2003.

State law generally conformed to federal law, as it existed prior to January 23, 2002, for postponements of certain tax-related deadlines due to a Presidentially declared disaster with three exceptions. First, state law defines taxpayers as individuals so that business entities are currently excluded from relief. Second, the maximum period for postponement of deadlines is 90 days, rather than the prior federal law postponement of 120 days or the current federal one-year period. Finally, FTB is required to abate interest on the tax assessed for individuals during this 90-day period.

FTB generally provides reasonable cause consideration to extend the deadline for filing the California return and the payment of any balance due under a separate state law to business entity taxpayers located in or affected by Presidentially declared disaster areas. However, there are no interest waiver provisions for business entity taxpayers affected by a disaster.

THIS BILL

This bill would conform state law to the federal Victims of Terrorism Tax Relief Act of 2001 with respect to the exemption from income tax (including the \$10,000 minimum tax relief benefit), items that are specifically excluded from gross income, certain taxpayer deadlines, and disclosure of certain taxpayer information to specified federal agencies. Accordingly, this bill would provide an exemption from income tax (including a minimum tax relief benefit of \$10,000) to individuals that died as a result of the terrorist attacks in 1995, September 11, 2001, and anthrax attacks between September 11, 2001, and January 1, 2002. The bill would also exclude the following items from income:

- ◆ specified survivor benefits and insurance payments received as compensation for deaths or injuries received as a result of terrorist attacks against the United States;
- ◆ any discharge of indebtedness by reason of the death or injury of a person arising from terrorists attacks occurring on or after September 11, 2001, and before January 1, 2002; and
- ◆ payments made by an exempt charitable organization due to terrorist attacks on or after September 11, 2001, and before January 1, 2002.

This bill would provide a minimum tax relief benefit of \$10,000 to individuals who died as a result of the terrorist attacks in 1995, September 11, 2001, and anthrax attacks between September 11, 2001, and January 1, 2002, regardless of California tax liability for eligible taxable years. If an eligible individual's income tax for the years eligible for exclusion by this provision is less than \$10,000, the individual is treated as having made a tax payment for the last taxable year.

This bill would conform to the new federal extension of up to one year for certain taxpayer deadlines. This bill would allow all taxpayers, including trusts and estates, affected by disasters, terrorist attacks, or military actions to receive the same tax relief provided by federal law. Specifically, this bill would extend filing deadlines, payment periods for certain taxes, and filing deadlines for claims for refund.

This bill also would permit disclosure of specified tax information to appropriate federal agencies engaged in terrorism and national security investigations.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following concerns and has provided amendments to resolve them.

Amendment 10 is attached to clarify that FTB only may release tax return or return information to federal agencies conducting terrorist investigations. It may be appropriate to provide a sunset date that coincides with the federally specified of December 31, 2003.

The sections of the Victims of Terrorism Tax Relief Act of 2001 to which this bill would conform reference another federal section mandating that the Secretary must not disclose return or return information if it is determined that the disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation. However, this bill does not specifically conform the state law to this section. The author may wish to consider amending the bill to include Section 6103(i)(6) to protect the integrity of these tax investigations. Please see Amendment 12.

TECHNICAL CONCERNS

The correct title of the federal act is the “Victims of Terrorism *Tax* Relief Act of 2001.” The author may wish to make this change to avoid confusion or misapplication. See Amendments 1, 2, 5, 7, 9, and 11.

This bill would amend Section 17132.6 regarding death benefits. AB 1122 (Corbett, Ch. 35, Stats. 2002) inadvertently created a new Section 17132.6 regarding the Ricky Ray Hemophilia Relief Fund Act of 1998 (P.L. 105-369). The Assembly Committee on Revenue and Taxation has indicated its intent to amend AB 2978 to repeal Section 17132.6 and renumber it as 17132.5. The author may wish to make a similar or other clarifying change to this bill.

LEGISLATIVE HISTORY

AB 2978 (Assembly Committee on Revenue and Taxation, 2001/2002) would provide conformity to specified sections of the Victims of Terrorism Tax Relief Act of 2001 (P.L. 107-134). This bill is currently in the Assembly Appropriations Committee.

SB 519 (Lockyer, Stats. 1998, Ch. 7,) conformed California law to federal law as it relates to the postponement of certain tax-related deadlines. AB 2797 (Cardoza, Stats. 1998, Ch. 322,) clarified that these deadlines are only available to individuals affected by a Presidentially declared disaster.

OTHER STATES’ INFORMATION

For taxpayers and businesses affected by a Presidentially declared disaster, the majority of states conform to the current federal provisions for a Presidentially declared disaster. Individual state information on conformity with the Victims of Terrorism Tax Relief Act of 2001 was not available.

FISCAL IMPACT

This bill should not significantly impact the department’s costs.

ECONOMIC IMPACT

Based on the Joint Committee on Taxation’s (JCT) estimated budget effects of the Victims of Terrorism Tax Relief Act of 2001 as well as the federal impacts projected for disaster relief, conforming to federal income tax provisions would result in revenue losses as follows:

Estimated Revenue Losses Enactment Assumed After 6/30/2002 (In \$ Millions)			
	2002/2003	2003/2004	2004/2005
Disaster Relief/Federal Conformity to P.L. 107-134	-\$25	-\$10	Negligible

* Numbers rounded.

A majority of the above losses pertains to the \$10,000 minimum tax relief benefit for each eligible individual regardless of the income tax liability of the individual for the eligible years. The individual will receive as a tax benefit the larger of his or her tax liabilities for California purposes taken together for the year of death and the year prior or \$10,000.

Per JCT, the estimated losses are \$187 million, \$51 million, and \$6 million for their fiscal years ending in 2002, 2003, and 2004, respectively. These amounts were reduced by half to account for the reduction in number of victims as originally estimated from September 11. $((\$187 \text{ million} + \$51 \text{ million} + \$6 \text{ million})/2 = \$122 \text{ million})$ According to a media source for September 11th and other news articles regarding anthrax and the Oklahoma bombings, approximately 45 victims were from California out of an estimated total of 3,200 victims. Approximately 50 victims were from other countries. As written, California would be required to provide a tax relief benefit to all 3,200 individuals. Since these individuals are not all California residents, not all would exceed the \$10,000 minimum benefit. Therefore, this estimate was calculated in two parts. First, the \$10,000 minimum benefit was multiplied by the total number of victims resulting in a revenue loss of \$32 million. A ratio of 45 (California residents) to 3,150 (U.S. residents) was applied to the balance of the federal estimate utilized for this analysis that exceeds the \$32 million. $((\$122 \text{ million} - \$32 \text{ million}) \times (45/3150) = \$1.3 \text{ million})$ In addition, the \$1.3 million was adjusted to reflect California's lower tax rates. $(\$1.3 \text{ million}/28\% \times 9.3\% = \$0.43 \text{ million})$ All other revenue losses associated with this proposal are expected to be negligible. The results were then added to the \$32 million, calculated on a fiscal year basis for 2002-03, 2003/2004, and 2004/2005, and rounded.

POLICY CONCERN

This bill would provide a minimum tax relief benefit of \$10,000 to each eligible individual regardless of the income tax liability of the individual for the eligible years. Thus, an individual from New York with no California tax liability would be entitled to \$10,000. The author may wish to remove this apparently unintended gift of public funds. Please see Amendments 3, 4, 6, and 8.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 219
As Amended May 20, 2002

AMENDMENT 1

On page 2, line 7, after "Terrorism" insert:

Tax

AMENDMENT 2

On page 2, line 22, after "Terrorism" insert:

Tax

AMENDMENT 3

On page 3, line 10, after "17731" insert:

(a)

AMENDMENT 4

On page 3, line 13, strike "(a)(1)" insert:

(b)(1)(A)

AMENDMENT 5

On page 3, line 14, after "Terrorism" insert:

Tax

AMENDMENT 6

On page 3, line 16, after "after September 11, 2001" insert

, except as otherwise provided

(B) Section 692(d)(2) of the Internal Revenue Code, relating to the \$10,000 minimum benefit, shall not apply.

AMENDMENT 7

On page 3, line 19, after "Terrorism" insert:

Tax

AMENDMENT 8

On page 3, line 21, strike "(b)" and insert:

(c)

AMENDMENT 9

On page 4, line 15, after "Terrorism" insert:

Tax

AMENDMENT 10

On page 5, line 7, after "and return information" insert:

to federal agencies

AMENDMENT 11

On page 5, line 11, after "Terrorism" insert:

Tax

AMENDMENT 12

On page 5, line 12, after "(Public Law 107-134)." insert:

The Franchise Tax Board shall not disclose any return or return information under this section if the Franchise Tax Board determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.